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U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE ON INTELLIGENCE

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January 24, 2006

The Honorable Pete Hoekstra
Chairman
House Permanent Select Committee on Intelligence
H-405, The Capitol
Washington, DC 20515

Dear Pete,

We write to reiterate our request that the Committee hold open and closed hearings on the NSA program.

The President and senior Administration officials are addressing the rationale for the program and its legal basis in a number of public forums this week, and it is appropriate that our Committee members have the opportunity to ask questions about the unclassified aspects of the program in an on-the-record, public setting. The Senate Judiciary Committee will be holding hearings on this topic in early February.

Any classified aspects of the program can be handled during a closed hearing in our Committee spaces.

Our Ranking Member has had an opportunity to ask and hear the answers to some of the following questions, as a member of the Gang of Eight. But she is prohibited from sharing this information with us and joins us in the view that all of these questions need to be answered on the record:

1. What is the purpose of the program?
2. When did the program begin? When was it first authorized by the President?
3. How is the program operated and controlled?
4. Who are the targets of the collection and how were they identified? Who makes the decision as to which communications to target and collect? What criteria are applied in making their determinations?

5. What are the rules for the handling, retention, maintenance, minimization and dissemination of collection under the program?
6. Does the program involve data mining or actual monitoring of communications, or both?
7. What actionable intelligence has been obtained and what has been its value in disrupting terrorist plots?
8. Why did the Administration not obtain FISA warrants to conduct this activity?
9. Are FISA's 72-hour emergency provisions insufficient to conduct this activity? If so, why? What specific provisions would need to be altered in order to make FISA sufficient?
10. In the absence of any authority which the Authorization for the Use of Military Force (AUMF) may grant, would a change to FISA be necessary to authorize the program?
11. Has information obtained through the program been used as part of the basis for FISA or conventional warrants?
12. When the President requested that Congress amend FISA as part of the Patriot Act in 2001, why did he not also request that FISA be amended so as to authorize the NSA program?
13. If the President intended the AUMF to authorize warrantless surveillance of United States Persons, why did he not make that clear to Congress at the time it considered the AUMF, or subsequently?
14. Are there other activities the Administration believes are justified by the AUMF resolution that it has not briefed to Congress? For example, are officials conducting physical searches in the United States without a warrant?
15. Why has it been necessary to seek such frequent Presidential re-authorizations? How many re-authorizations have there been?
16. What were the concerns that led the program to be reevaluated in 2004? How were these concerns resolved?
17. Since the NSA program is not a "covert action," under what understanding has the President restricted notice of this program to the Gang of Eight?
18. How many staff employees at the National Security Agency have been briefed into the program? How many staff employees elsewhere in the intelligence

community have been briefed into the program? How many contractors in the intelligence community have been briefed? How many employees of the Justice Department and FBI have been briefed? What was the total number of people briefed into the program as of December 15, 2005?

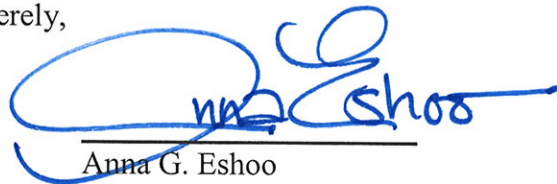
19. To what extent has the disclosure of the program compromised intelligence sources and methods?

We believe that these questions, and others that you and the Majority may have, should be addressed by senior Administration witnesses – including Deputy Director of National Intelligence Michael Hayden, Attorney General Alberto Gonzales and National Security Advisor Steven Hadley – as soon as Congress returns from recess. The American people expect us to engage in rigorous oversight over intelligence programs, and a full committee hearing is the first step in such oversight.

Sincerely,



Jane Harman
Ranking Democrat



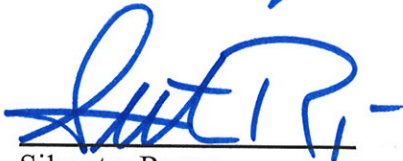
Anna G. Eshoo



Alcee L. Hastings



Rush D. Holt



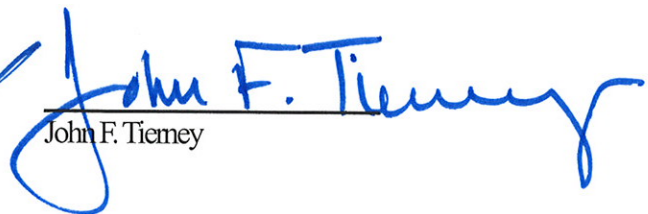
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